

United States District Court
Central District of California

PAULINA GONZALEZ-CHAVEZ,

Plaintiffs,

v.

COSTCO WHOLESALE CORPORATION et al.

Defendants.

MILE HIGH EQUIPMENT, LLC

Cross-Claimant,

v.

COSTCO WHOLESALE CORPORATION,
CORNELIUS, INC. and ROES 1-10

Cross-Defendants.

MILE HIGH EQUIPMENT, LLC

Third-Party Plaintiff,

v.

SMITH and GREENE COMPANY and MOES 1-
10

Third-Party Defendants.

Case No. 2:18-cv-10163-ODW
(GJSx)

**ORDER GRANTING
PLAINTIFF'S MOTION TO
MODIFY THE SCHEDULING
ORDER AND FOR LEAVE TO
FILE AMENDED
COMPLAINT [39, 40]**

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1 amend the pleadings or add parties; January 6, 2020, as fact discovery cutoff; and trial
2 to commence on June 2, 2020. (Scheduling Order 24, ECF No. 31.) On September 9,
3 2019, Mile High moved to modify the Scheduling Order and file a FATPC, and set the
4 motion for hearing on October 21, 2019. (*See* Mot. to Modify.) Thus, pursuant to
5 Local Rule 7-9, Hernandez’s oppositions were due no later than September 30, 2019.
6 *See* C.D. Cal. L.R. 7-9 (requiring oppositions to be filed no later than twenty-one days
7 before the motion hearing). However, to date, no opposition has been filed.

8 **III. PLAINTIFF’S FAILURE TO OPPOSE WARRANTS DISMISSAL**

9 Central District of California Local Rule 7-12 provides that the Court “may
10 decline to consider any memorandum or other document not filed within the deadline
11 set by order or local rule.” C.D. Cal. L.R. 7-12 (“The failure to file [a responsive
12 document], or the failure to file it within the deadline, may be deemed consent to the
13 granting or denial of the motion. . . .”); *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir.
14 1995) (affirming dismissal on the basis of unopposed motion pursuant to local rule).

15 Prior to dismissing an action pursuant to a local rule, courts must weigh: “(1)
16 the public’s interest in expeditious resolution of litigation; (2) the court’s need to
17 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
18 favoring disposition of cases o[n] their merits; and (5) the availability of less drastic
19 sanctions.” *Ghazali*, 46 F.3d at 53 (quoting *Henderson v. Duncan*, 779 F.2d 1421,
20 1423 (9th Cir. 1986)). “Explicit findings with respect to these factors are not
21 required.” *Ismail v. Cty. of Orange*, SACV 10-00901 VBF (AJW), 2012 WL
22 12964893, at *1 (C.D. Cal. Nov. 7, 2012) (citing *Henderson*, 779 F.2d at 1424;
23 *accord, Malone v. U.S. Postal Serv.*, 833 F.2d 128, 129 (9th Cir. 1987), *cert. denied*,
24 488 U.S. 819 (1988)). In *Ghazali*, the Ninth Circuit found these factors satisfied
25 where the plaintiff received notice of the motion, had “ample opportunity to respond,”
26 yet failed to do so. *See Ghazali*, 46 F.3d at 54.

27 Here, parties received notice of the motions and had ample opportunity to
28 respond; however, they failed to oppose or otherwise respond. Parties are represented

1 by counsel in this matter and their attorneys are registered CM/ECF user who receives
2 notice of electronic filings in this action. As such, the Court construes failure to
3 respond to Mile High's motions as consent to the Court granting them.

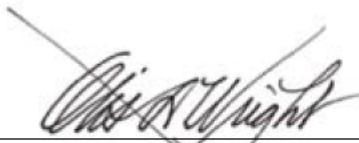
4 Accordingly, pursuant to Local Rule 7-12 and *Ghazali*, the Court **GRANTS**
5 Mile High's motions.

6 **IV. CONCLUSION**

7 For the foregoing reasons, the Court **GRANTS** Mile High's motion to amend
8 the Scheduling Order. The deadline to add a party to a complaint is extended through
9 **November 6, 2019**. No other dates are modified. The Court **GRANTS** leave to
10 amend the third-party complaint.

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12 **IT IS SO ORDERED.**

13
14 October 23, 2019

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17 **OTIS D. WRIGHT, II**
18 **UNITED STATES DISTRICT JUDGE**
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